

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ALEXIS LEE,

Plaintiff,

v.

DINO DENNISON, *et al.*,

Defendants.

Case No. 2:19-cv-1332-KJD-DJA

ORDER

Presently before the Court is Plaintiff's Motion to Continue Trial (#72). Defendants filed a response in opposition (#75).

Trial is currently set for October 4, 2021. Master Trial Calendar Scheduling Conference is currently set for 2 p.m., September 7, 2021. Plaintiff asserts that her expert witness Dr. David J. Oliveri is unavailable to testify at her trial in October and that her counsel has four (4) other trials set on or about the same dates in October. The parties were unable to come to an agreement after conferring.

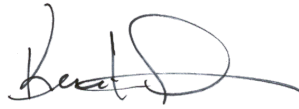
Generally, a district court's decision regarding a continuance is given deference. See Danjaq LLC v. Sony Corp., 263 F.3d 942, 961 (9th Cir. 2001). The Court should consider four factors when deciding whether to grant a continuance: (1) the movant's diligence in preparing for the date set for hearing; (2) the likelihood that a continuance will address the need giving rise to the motion for a continuance; (3) the extent to which a continuance will inconvenience the court and the opposing party, including its witnesses; and (4) whether the movant will suffer prejudice if the continuance is denied. United States v. Flynt, 756 F.2d 1352, 1359 (9th Cir. 1985). Here, there is no evidence that Plaintiff was not diligent in preparing for trial. Further, given the continual delays caused by the Covid-19 pandemic, scheduling of all trials has been difficult with schedules of courts, attorneys and experts constantly changing. Plaintiff's expert is a

1 necessary witness and Plaintiff will be prejudiced if the expert is unable to testify at trial.
2 Continuing the trial will give the parties an ability to reschedule for a date that witnesses and
3 counsel are available. This continuance does inconvenience defense counsel and their witnesses.
4 Therefore, a date will be selected based on the availability of both parties.

5 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Continue Trial (#72)
6 is **GRANTED**;

7 IT IS FURTHER ORDERED that a new date for calendar call and trial be set by separate
8 order.

9 Dated this 3rd day of September, 2021.

A handwritten signature in black ink, appearing to read 'Kent J. Dawson', is written over a horizontal line.

Kent J. Dawson
United States District Judge